HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.14234 of 2006

Date: 10-08-2007.

Between :

Jamia Mosque Towliath Committee, Kurnool Town,
rep. by its President.

.....Petitioner

And

The Chief Executive Officer,
Andhra Pradesh State Wakf Board,
Haj House, Hyderabad & others.

.....Respondents.

HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.14234 of 2006

ORDER :

The petitioner is a Towliath Committee of "Jamia Mosque" at Kurnool town. It was appointed under Section 18 of The Wakf Act, 1995 (for short 'the Act'), by the Wakf Board, through proceedings, dated 28.02.2005, for a period of two years. The 1st respondent appointed another Committee, comprising of respondents 2 to 16 through proceedings, dated 24.06.2006. The same is challenged in this writ petition. It is contended that as long as the order of appointment of the Petitioner-Committee remained in force, it was not competent for the 1st respondent to appoint respondents 2 to 16.

The 1st respondent filed a counter affidavit stating that though the Petitioner-Committee was appointed on 28.02.2005, it did not start functioning even after expiry of one year, and having left with no alternative, the order, dated 28.02.2005 was kept in abeyance in the proceedings, dated 06.06.2006. It is stated that on the representation made by the local Muslims, another

Committee, comprising of respondents 2 to 16, was constituted by proceedings, dated 28.02.2005. The 1st respondent contended that no relief can be granted to the petitioner since the term stipulated in the proceedings, dated 28.02.2005, has expired.

Heard Sri E.Ayyapu Reddy, learned counsel for petitioner, Sri Shafath Ahmed Khan, learned counsel for the 1st respondent and Sri B.Purushothama Reddy, learned counsel for respondents 2 to 16.

It is not in dispute that the Petitioner-Committee was appointed by the 1st respondent vide proceedings, dated 28.02.2005 for a period of two years, in exercise of powers under Section 18 of the Act. In case there was any lapse on the part of the petitioner, the 1st respondent ought to have passed necessary orders under Section 67 of the Act after issuing notices to the affected parties. The 1st respondent has chosen to keep the order of appointment of the Petitioner-Committee, "pending" in purported exercise of powers under Sub-section (2)(i) of Section 32 of the Act. A perusal of that provision indicates that it has absolutely nothing to do with the keeping of the orders of appointment in abeyance, or to suspend them. Another glaring irregularity committed by the 1st respondent is that

even while the order, dated 28.02.2005 was in force in one form or the other, he proceeded to appoint the committee comprising of respondents 2 to 16 for the same Wakf. The result is that there existed two orders, appointing different Committees. The whole exercise was undertaken without proper verification of relevant provisions of Law.

However, whatever may be the illegality committed by the 1st respondent in issuing the impugned order, this Court is handicapped from granting relief to the petitioner. The reason is that the term for which the Petitioner-Committee was appointed, had expired in February, 2007. No interim order was granted in its favour, though the writ petition was admitted on 13.07.2006. The only observation that can be made is that soon after the expiry of the term of respondents 2 to 16, the 1st respondent shall consider the case of the members comprising of the Petitioner-Committee, for being appointed as Towliath Committee or Managing Committee, as the case may be.

Hence, the writ petition is disposed of, directing that the case of the members of the Petitioner-Committee shall be considered for appointing as Towliath Committee or Managing Committee as and when the next Committee is constituted after the expiry of the term of respondents 2 to

16. No order as to costs.

L. NARASIMHA REDDY, J

10th August, 2007

ajr